

LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature First Regular Session - 2015

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 50

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-323, IDAHO CODE, TO PROVIDE FOR UNIT OPERATIONS, TO PROVIDE FOR HEARINGS, TO PROVIDE FOR ORDERS, TO PROVIDE FOR FINDINGS, TO PROVIDE FOR THE CONTENT OF APPLICATIONS, TO PROVIDE FOR SPECIFIED CERTIFICATION BY APPLICANTS, TO PROVIDE FOR MEANS OF SERVICE, TO PROVIDE FOR RESPONSES TO APPLICATIONS, TO PROVIDE FOR THE SCHEDULING OF HEARINGS AND NOTICE OF HEARINGS, TO PROVIDE THAT ORDERS FOR UNIT OPERATIONS MUST BE ON JUST AND REASONABLE TERMS AND CONDITIONS, TO PROVIDE THAT ORDERS SHALL INCLUDE PLANS FOR UNIT OPERATIONS, TO PROVIDE FOR CONTENTS OF PLANS, TO PROVIDE THAT ORDERS FOR UNIT OPERATIONS MAY PROVIDE FOR UNIT OPERATIONS OF LESS THAN THE WHOLE OF POOLS UNDER CERTAIN CONDITIONS, TO PROVIDE FOR TERMINATION AND DISSOLUTION OF UNIT OPERATIONS, TO PROVIDE CONDITIONS UNDER WHICH ORDERS FOR UNIT OPERATIONS SHALL BECOME EFFECTIVE, TO PROVIDE FOR AMENDMENT OF ORDERS, TO PROVIDE FOR ORDERS FOR UNIT OPERATIONS OF A POOL OR POOLS OR PARTS THEREOF THAT INCLUDE UNITS CREATED BY PRIOR ORDERS, TO PROVIDE A PROCEDURE RELATING TO ALLOCATION IN SUBSEQUENT ORDERS, TO PROVIDE FOR THE APPROVAL OF ADDITIONS OR EXCLUSIONS IN UNIT AREAS UNDER CERTAIN CONDITIONS, TO PROVIDE CONDITIONS UNDER WHICH ORDERS FOR ADDITIONS OR EXCLUSIONS TO UNIT AREAS SHALL BECOME EFFECTIVE, TO PROVIDE THAT OPERATIONS ARE DEEMED CONDUCTED ON CERTAIN TRACTS BY OWNERS, TO PROVIDE THAT PORTIONS OF UNIT PRODUCTION ALLOCATED TO A SEPARATELY OWNED TRACT WHEN PRODUCED IS DEEMED PRODUCED FROM A WELL DRILLED ON THAT TRACT, TO PROVIDE THAT CERTAIN OPERATIONS SHALL CONSTITUTE FULFILLMENT OF CERTAIN EXPRESSED OR IMPLIED OBLIGATIONS TO A SPECIFIED EXTENT, TO PROVIDE THAT CERTAIN PRODUCTION AND PROCEEDS OF SALE ARE DEEMED THE PROPERTY AND INCOME OF SPECIFIED PERSONS, TO PROVIDE FOR THE DURATION OF FORCE OF DIVISION ORDERS OR OTHER CONTRACTS RELATING TO A SALE OR PURCHASE OF PRODUCTION AND THE APPLICATION THEREOF, TO PROVIDE THAT CERTAIN ORDERS DO NOT RESULT IN TRANSFER OF TITLE, TO PROVIDE THAT CERTAIN PROPERTY IS DEEMED THE PROPERTY OF SPECIFIED PERSONS AND TO PROVIDE THAT THE FORMATION AND OPERATION OF A UNIT UNDER ORDER OF THE OIL AND GAS COMMISSION SHALL NOT BE IN VIOLATION OF CERTAIN LAW.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 47-323, Idaho Code, be, and the same is hereby amended to read as follows:

47-323. ~~APPROVAL OF AGREEMENTS BY COMMISSION -- DEFENSE TO LITIGATION~~
UNIT OPERATIONS. (1) An agreement for the unit or cooperative development or operation of a field, pool, or part thereof, may be submitted to the commission for approval as being in the public interest or reasonably necessary to prevent waste or protect correlative rights. Such approval shall constitute a complete defense to any suit charging violation of any statute of the state

1 relating to trusts and monopolies on account thereof or on account of oper-
2 ations conducted pursuant thereto. The failure to submit such an agreement
3 to the commission for approval shall not for that reason imply or constitute
4 evidence that the agreement or operations conducted pursuant thereto are in
5 violation of laws relating to trusts and monopolies.

6 (2) The commission, upon its own motion or upon application of an owner,
7 shall conduct a hearing to consider the need for unit operation of an entire
8 pool or portion thereof, to increase ultimate recovery of oil and gas from
9 that pool or portion thereof. The commission shall issue an order requiring
10 unit operation if it finds that:

11 (a) Unit operation of the pool or portion thereof is reasonably neces-
12 sary to prevent waste or to protect correlative rights;

13 (b) Unit operation of the pool or portion thereof is reasonably nec-
14 essary for maintaining or restoring reservoir pressure, or to imple-
15 ment cycling, water flooding, enhanced recovery, horizontal drilling,
16 de-watering or a combination of these operations or other operations or
17 objectives to be cooperatively pursued with the goal of increasing the
18 ultimate recovery of oil and gas; and

19 (c) The estimated cost to conduct the unit operation will not exceed the
20 value of the estimated recovery of additional oil and gas resulting from
21 unit operation.

22 (3) An application for requesting an order providing for the operation
23 as a unit of one (1) or more pools or parts thereof in a field shall contain:

24 (a) A plat map showing the proposed unit, the existing spacing units,
25 and well(s) within the units;

26 (b) The names and addresses of all persons owning mineral interests and
27 working interests in the proposed unit;

28 (c) An affidavit that the applicant, by certified mail, notified all
29 persons owning unleased mineral interests and working interests in the
30 proposed unit at least sixty (60) days prior to filing the application
31 with the commission of the applicant's intention to make the applica-
32 tion;

33 (d) A proposed plan of unit operations for the proposed unit that con-
34 tains the information in subsection (5) of this section; and

35 (e) A proposed operating agreement that is consistent with the proposed
36 plan of unit operations.

37 (4) At the time the application for unit operations is filed with the
38 commission, the applicant shall certify that a copy of the application was
39 served on all unleased mineral interest and working interest owners in the
40 proposed unit. The application may be served by personal delivery or cer-
41 tified U.S. mail, return receipt requested; provided however, if an owner
42 cannot be located, the application may be served by publishing a notice in
43 a newspaper of general circulation reasonably likely to give notice to the
44 owner once a week for two (2) consecutive weeks and mailing the application
45 to the last known address of the owner. The unleased mineral interest and
46 working interest owners shall have twenty-one (21) days from the date of ser-
47 vice of the application to file a response to the application with the com-
48 mission. The commission will schedule a hearing on the application for unit
49 operations and will give notice of the hearing to the applicant and all own-
50 ers who file a response to the application with the commission.

1 (5) An order for a unit operation must be upon just and reasonable terms
2 and conditions and shall prescribe a plan for unit operations that include
3 all of the following:

4 (a) A description of the vertical and horizontal limits of the unit
5 area;

6 (b) A statement of the nature of the operation contemplated;

7 (c) A provision for the supervision and conduct of the unit operation
8 that designates an operator of the unit and provides a means to remove
9 the operator and designate a successor operator;

10 (d) A provision to protect correlative rights, allocating to each sep-
11 arately owned tract in the unit area a just and equitable share of the
12 production that is produced and saved from the unit area, other than
13 production used or unavoidably lost in the conduct of the unit opera-
14 tion;

15 (e) A provision for credits and charges to adjust among working inter-
16 est owners in the unit area for their interest in wells, tanks, pumps,
17 machinery, materials and equipment that contribute to the unit opera-
18 tion;

19 (f) A provision establishing how the costs of unit operation, including
20 capital investments and costs of terminating the unit operation, shall
21 be determined and charged to each working interest owner or the inter-
22 est of each owner, including a provision establishing how, when and by
23 whom the share of unit production allocated to an owner who does not pay
24 the share of those costs charged to that owner or to the interest of that
25 owner may be sold and the proceeds applied to the payment of that owner's
26 share of those costs, and how accounts will be settled upon termination
27 of the unit;

28 (g) A provision, if necessary, for carrying or otherwise financing an
29 owner who elects to be carried or otherwise financed, which allows own-
30 ers who carry or otherwise finance to recover up to three hundred per-
31 cent (300%) of the unit costs attributed to an owner who elects to be
32 carried or otherwise financed payable out of that owner's share of the
33 production;

34 (h) A time when the unit operation is to commence and the manner in
35 which, and the circumstances under which, the unit operation is to ter-
36 minate and the unit is to be dissolved; and

37 (i) Additional provisions found to be appropriate to carry on the unit
38 operation, to prevent waste and to protect correlative rights.

39 (6) An order for a unit operation may provide for a unit operation of
40 less than the whole of a pool so long as the unit area is of size and shape rea-
41 sonably required for that purpose and the conduct thereof will have no sig-
42 nificant adverse effect upon other portions of the pool.

43 (7) The commission, upon its own motion or upon the application of an
44 owner, may for good cause terminate a unit operation and dissolve the unit
45 on just and equitable terms. If not terminated earlier, the unit operation
46 shall terminate upon final cessation of production from the pool or unitized
47 portion thereof, the plugging and abandonment of unit wells and facilities,
48 and reclamation of the surface.

49 (8) An order requiring a unit operation shall not become effective un-
50 til the plan for unit operations approved by the commission has been signed

1 and approved in writing by the owners who, under the commission's order, will
2 be required to pay at least fifty-five percent (55%) of the costs of the unit
3 operation, and also signed and approved in writing by the working interest
4 owners of at least fifty-five percent (55%) of the production of the unit op-
5 erations, and the commission has made a finding in the order that the plan for
6 unit operations has been so approved.

7 (9) An order providing for unit operation may be amended by an order of
8 the commission in the same manner and subject to the same conditions as an
9 original order providing for the unit operation.

10 (10) The commission may issue an order for the unit operation of a pool
11 or pools or parts thereof that include a unit created by a prior order of the
12 commission or by voluntary agreement. This subsequent order, in providing
13 for the allocation of the unit's production, must treat first the unit area
14 previously created as a single tract and then allocate, in the same propor-
15 tions as those specified in the prior order, the portion of the new unit's
16 production allocated to the previous unit among the separately owned tracts
17 included in the previously created unit area.

18 (11) The commission may approve additions to the unit of portions of a
19 pool not previously included within the unit and may extend the unit area as
20 reasonably necessary to prevent waste or to protect correlative rights. The
21 commission may approve exclusions from the unit area as reasonably necessary
22 to prevent waste or to protect correlative rights. An order adding to or ex-
23 cluding from a unit area must be upon just and reasonable terms.

24 (a) An order that amends a plan of unit operations and adds an area
25 to a previously established unit shall not become effective until the
26 amended plan of unit operations has been signed and approved in writing
27 by the owners who will be required to pay at least fifty-five percent
28 (55%) of the costs of the unit operation in the area to be added, and
29 also signed and approved in writing by the working interest owners of
30 at least fifty-five percent (55%) of the production of the unit opera-
31 tions, and the commission has made a finding in the order that the plan
32 for unit operations has been so approved.

33 (b) An order providing for an exclusion from a unit area may not become
34 effective until an amended plan of unit operations excluding an area
35 from the unit has been approved in writing by the owners in the original
36 unit area that are required to pay at least fifty-five percent (55%) of
37 the costs of unit operations, and also approved in writing by the work-
38 ing interest owners in the original unit area required to pay at least
39 fifty-five percent (55%) of the production of the unit operations, and
40 the commission has made a finding in the order that the plan for unit
41 operations has been so approved.

42 (12) Operations, including the commencement, drilling or operation of a
43 well upon a portion of a unit area, are deemed conducted on each separately
44 owned tract in the unit area by the owner or owners thereof. That portion
45 of a unit's production allocated to a separately owned tract in a unit area,
46 when produced, is deemed produced from a well drilled on that tract. Opera-
47 tions conducted under an order of the commission providing for a unit oper-
48 ation shall constitute fulfillment of expressed or implied obligations of a
49 lease or contract covering lands within the unit area to the extent that com-

1 pliance with those obligations is not possible without a further order of the
2 commission.

3 (13) That portion of unit production allocated to a tract and the pro-
4 ceeds of sale for that portion are deemed the property and income of the sev-
5 eral persons to whom or to whose credit that portion is allocated or payable
6 under the order providing for unit operation.

7 (14) A division order or other contract relating to a sale or purchase of
8 production from a separately owned tract or combination of tracts remains in
9 force and applies to oil and gas allocated to the tract until terminated in
10 accordance with provisions of the order providing for unit operation, or in
11 accordance with the terms of such division order or other contract.

12 (15) Except to the extent that all affected parties agree, an order pro-
13 viding for unit operation does not result in a transfer of all or part of a
14 person's title to the oil and gas rights in a tract in the unit area.

15 (16) Except to the extent that all affected parties agree, all property,
16 whether real or personal, that may be acquired in the conduct of a unit oper-
17 ation hereunder is deemed acquired for the account of the owners within the
18 unit area and is deemed the property of the owners in the proportion that the
19 expenses of the unit operation are charged.

20 (17) The formation of a unit and the operation of the unit under an order
21 of the commission shall not be in violation of any statute of this state re-
22 lating to trusts, monopolies, contracts or combinations in the restraint of
23 trade.